

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

UNSTARRED QUESTION NO:2155
ANSWERED ON:11.12.2015
e-Commerce
Shanavas Shri M. I.

Will the Minister of FINANCE be pleased to state:

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
LOK SABHA
UNSTARRED QUESTION NO. 2155
TO BE ANSWERED ON FRIDAY, THE 11TH DECEMBER, 2015
20 AGRAHAYANA, 1937 (SAKA)
e-Commerce
2155 :SHRI M.I. SHANAVAS
Will the Minister of FINANCE be pleased to state:

- (a) whether the foreign e-commerce companies are paying tax for their online sales in the country;
- (b) if so, the details thereof; and
- (c) if not, the action taken by the Government in this regard?

Answer

ANSWER
MINISTER OF STATE IN THE MINISTRY OF FINANCE
(SHRI JAYANT SINHA)

(a) to (b): Online sale/shopping like any economic activity is governed by the existing laws/regulations governing economic activity. So far as collection of taxes are concerned, the following is the legal position:

- (i) Goods procured online for import into India attract Customs duty at the stage of their importation.
 - (ii) Goods procured online, if manufactured, are cleared from factory on payment of applicable Central Excise duty.
 - (iii) As regards good sold online in the case of domestic trade, the following is applicable:
 - (a) If the e-tailing company sell goods on its own account, such sale is liable to VAT, which is a State subject. Trading of goods online does not attract levy of Service Tax, as they are included under 'negative list' of services under Section 66D of the Finance Act, 1994.
 - (b) If the e-tailing company provides support to the retailer by way of business support, such as, affiliation, storage, delivery, technical support, etc and goods are sold by the retailer, the fee collected by the e-tailing company attracts service tax. Besides, any service by way of online advertisement also attracts service tax. The retailer is, in any case, liable to pay VAT, which is a State subject.
- Further, E-Commerce web-sites dealing with services are mostly intermediaries or aggregators. Under Rule 2(aa) of the Service Tax Rules, 1994, "aggregator" means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator. However, aggregators may provide services on their own account also. In that case, the services provided are liable to service tax as per the provisions of the
- Contd.

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Finance Act, 1994. In Union Budget 2015, with effect from 01.03.2015, the aggregator has been made liable to pay Service Tax on behalf of the service providers if the service is so provided using the brand name of the aggregator in any manner. In so far as the intermediaries are concerned, they are liable to Service Tax for the commission received and the service provider will pay the Service Tax for the services provided. In case of import of service by business entity, the recipients of such service is liable to pay Service Tax.

Thus, there is no revenue loss due to e-commerce or online shopping only. Further, as the goods sold through online are either manufactured in India or imported into India, such goods have suffered excise duty/customs duty at the time of clearance/import thereof. Therefore, there is no lack of mechanism to collect Government revenue from the business companies engaged in e-commerce or online shopping. The existing provisions are capable of taking care of collection of central taxes, as may be applicable, from such companies.

(c) In view of reply to parts (a) & (b) above, question does not arise.
